

**Filed 1/7/97**

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DERRICK LAW,

Defendant-Appellant.

Nos. 96-1139

96-1155

96-1212

(D.C. Nos. 96-M-168, 96-M-631)

(D. Colo.)

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ORDER AND JUDGMENT\*

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Before PORFILIO, BALDOCK, and HENRY, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of these appeals. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cases are therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Because the notice of appeal in No. 96-1212 was filed after the date of the signing of the Antiterrorism and Effective Death Penalty Act of 1996, Pub.L. No. 104-132, 110 Stat. 1214 (Apr. 24, 1996), defendant must obtain a certificate of appealability, see 28 U.S.C. § 2253(c); cf. United States v. Lopez, 100 F.3d 113, 117 (10th Cir. 1996) (holding that certificate of appealability is not required where notice of appeal was filed before Act was signed). Defendant has voluntarily withdrawn the sole issue in this appeal and, thus, the certificate of appealability is denied.

In No. 96-1139, defendant appeals the district court's denial of a motion pursuant to 28 U.S.C. § 2255, wherein the district court found no defect in defendant's conviction for carrying a firearm in violation of 18 U.S.C. § 924(c) in the aftermath of Bailey v. United States, 116 S. Ct. 501 (1995). On de novo review, see United States v. Cox, 83 F.3d 336, 338 (10th Cir. 1996), we conclude that Bailey does not affect this case. "We see nothing in Bailey that conflicts with our pre-Bailey 'vehicular carrying' line of cases." United States v. Miller, 84 F.3d 1244, 1260 (10th Cir.), cert. denied, 117 S. Ct. 443 (1996). The district court's denial of the § 2255 motion in this case is affirmed.

Finally, in No. 96-1155, we find no error in the district court's order striking defendant's Special Appearance Demand to Dismiss for Lack of Federal Jurisdiction.

The certificate of appealability in No. 96-1212 is denied, and the appeal is DISMISSED. The judgments of the United States District Court for the District of Colorado in No. 96-1139 and No. 96-1155 are AFFIRMED.

Entered for the Court

John C. Porfilio  
Circuit Judge